

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAF) NO.4117 OF 2016
in
FIRST APPEAL ST. NO.25109 OF 2016

Shriram General Insurance Co. Ltd.

-vs-

Vaishnavi Vikas Datkar and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Sachin Jaiswal, Advocate for applicant/appellant.
Ms Sonali Saware, Advocate for respondent Nos.1 to 5.

CORAM : DR S.S.PHANSALKAR-JOSHI, J.
DATE : JUNE 16, 2017

This is an application for condonation of delay of 394 days in preferring the first appeal. Learned counsel for respondent Nos.1 to 5 has strongly resisted this application. However considering the reasons stated in paragraphs 3 and 4 of the application and having regard to the fact that appellant has already deposited the entire amount of compensation with interest and respondents-claimants are permitted to withdraw the substantial amount therefrom, this delay is condoned especially having regard to the sufficient cause shown in the application. Application is allowed and disposed of with no order as to costs.

C.A.F. No.4118 of 2016

In view of the fact that the entire amount of compensation has already been deposited by the

appellant, the earlier order of stay granted to the execution of the impugned award is made absolute till decision of the appeal.

Application is disposed of.

M.C.A. No.2185 of 2017

Heard learned counsel for the appellant and respondents/claimants.

This an application filed by the claimants seeking withdrawal of the amount of compensation which was granted to the tune of Rs.59,45,856/- with interest @ 8.50% per annum. The amount of Rs.42,00,000/- was directed to be kept in fixed deposit by the Tribunal itself. However the claimants are in urgent need of amount as respondent No.1-original claimant is suffering from kidney disease and has to take medicine regularly whereas respondent No.3 is also having kidney problem and has only one kidney and he has to take medical treatment continuously. Respondent No.4 is suffering from heart disease and taking medicine. Respondent No.5 is also having heart problem and hence it is submitted that they may be permitted to withdraw the entire amount of compensation which is kept in fixed deposit.

However, it is rightly submitted by learned counsel for the appellant that respondent Nos.2 and 3 are the minor children of respondent No.1-claimant. As per the Tribunal total amount of Rs.24 lacs is directed to be kept in fixed deposit so far as the share of minor children is

concerned and I do not find any reason at this stage to allow respondent No.1 to withdraw the said amount of the share of minors.

As regards respondent No.1- the widow, she has been granted share of Rs.12,00,000/- out of which she was permitted to withdraw the amount of Rs.6,00,000/-. However taking into consideration her kidney problem, she is permitted to withdraw the amount of Rs.3,00,000/- at this stage. However in case of the need of more amount, she is at liberty to file application of withdrawal when the necessity arises.

As regards respondent Nos.4 and 5 it is submitted that they were also granted compensation amount of Rs.12,00,000/- each out of which amount of Rs.6,00,000/- was kept in deposit and amount of Rs.6,00,000/- each was allowed to be withdrawn. Considering their age and their need for medical treatment, respondent Nos.4 and 5 are permitted to withdraw an amount of to Rs.6,00,000/- each subject to filing an undertaking that in case the appeal is allowed, said amount shall be repaid with interest at such rate the Court may direct. The remaining amount shall remain invested in Fixed Deposit.

Civil application is allowed in aforesaid terms and disposed of.

F. A. St. No.25109 of 2016

Heard.

Admit. Call for record and proceedings.

Ms S. Saware, learned counsel waives notice for respondent Nos.1 to 5.

Appellant to file private paper-book within six months after receiving the record and proceedings.

JUDGE